

Dennis J. Raterink (P52678)
Michigan Assistant Attorney General
(Pro Hac Vice)
Labor Division
P.O. Box 30736
Lansing, Michigan 48909
(517) 373-1176
Attorney for Michigan Self-Insurers' Security Fund

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In Re:

Chapter 11

DPH HOLDINGS CORP., et al.,

Case No. 05-44481 (RDD)

Reorganized Debtors.

(Jointly Administered)

**MICHIGAN SELF-INSURERS' SECURITY FUND'S STATEMENT OF ISSUES
AND DESIGNATION OF RECORD ON APPEAL**

Appellant Michigan Self-Insurers' Security Fund (SISF), by and through its counsel, Mike Cox, Attorney General, and Dennis J. Raterink, Assistant Attorney General, submits the following statement of issues and designates the following items to be included in the record in connection with the appeal from the Order Pursuant to 11 U.S.C. §503(b) and Fed. R. Bankr. P. 3007 (I) Denying Michigan Self-Insurers' Security Fund's Motion to Permit Late Filed Claim and (II) Disallowing and Expunging Proof of Claim Numbers 19501, 19502, 19541, and 19542 (the "Order"), entered by the United States Bankruptcy Court for the Southern District of New York (Hon. Robert D. Drain) on December 23, 2009.

I. STATEMENT OF ISSUES ON APPEAL

1. Did the Bankruptcy Court commit reversible error in concluding that the

doctrine of "excusable neglect" under Bankruptcy Rule 9006(b) did not apply to the SISF's failure to file a timely proof of claim?

2. Did the Bankruptcy Court commit reversible error in concluding that the fact that the SISF made an erroneous determination that it did not possess a claim did not warrant a finding of "excusable neglect," simply because the reason for the delay was "within the reasonable control" of the SISF?

3. Did the Bankruptcy Court commit reversible error in determining that allowing the SISF's late claim would create prejudice to the debtor, when the only prejudice demonstrated by Debtor was prejudice to other creditors?

II. DESIGNATION OF RECORD ON APPEAL

The SISF hereby designates the following items to be included in the record on appeal:

	Date Filed	Docket No.	Description
1	October 8, 2005	12	Debtor's Motion for order under 11 U.S.C. §105(a), 363, 507, 1107 and 1108 (I) authorizing debtors to pay prepetition wages and salaries to employees and independent contractors, (II) authorizing debtors to pay prepetition benefits and continue maintenance of human capital benefit programs in the ordinary course, and (III) directing banks to honor prepetition checks for payment of prepetition human capital obligations.
2	October 13, 2005	198	Order (I) authorizing debtors to pay prepetition wages and salaries to employees and independent contractors, (II) authorizing debtors to pay prepetition benefits and continue maintenance of human capital benefit programs in the ordinary course, and (III) directing banks to honor prepetition checks for payment of prepetition human capital obligations.

3	March 17, 2006	2866	Motion for Order Under 11 U.S.C. §§ 107(b), 501, 502, and 1111(a) and FED. R. BANKR. P. 1009, 2002(a)(7), 3003(c)(3), AND 5005(a) Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice
4	April 12, 2006	3206	Order Under 11 U.S.C. §§ 107(b), 501, 502, and 1111(a) and FED. R. BANKR. P. 1009, 2002(a)(7), 3003(c)(3), AND 5005(a) Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice
5	December 10, 2007	11388	Debtors' First Amended Disclosure Statement with Respect to First Amended Joint Plan of Reorganization of Delphi Corporation and Certain Affiliates, Debtors and Debtors-in-Possession
6	December 10, 2007	11386	Debtors' First Amended Joint Plan of Reorganization of Delphi Corporation and Certain Affiliates, Debtors and Debtors-in-Possession
7	January 25, 2008	12359	Findings of Fact, Conclusions of Law, and Order Under 11 U.S.C. §§ 1129(a) and (b) and FED. R. BANKR. P. 3020 Confirming First Amended Joint Plan of Reorganization of Delphi Corporation and Certain Affiliates, Debtors and Debtors-In-Possession, as Modified
8	October 3, 2008	14310	Motion For Order (I) Approving Modifications To Debtors' First Amended Plan Of Reorganization (As Modified) And Related Disclosures And Voting Procedures And (II) Setting Final Hearing Date To Consider Modifications To Confirmed First Amended Plan Of Reorganization
9	June 1, 2009	16646	Motion to Approve Debtors' (A) Supplement to Motion for Order (I) Approving Modifications to Debtors' First Amended Joint Plan of Reorganization (As Modified) and Related Disclosures and Voting Procedures and (II) Setting Final Hearing Date to Consider Modifications to Confirmed First Amended Plan of Reorganization and (B) Request to Set Administrative Expense Claims Bar Date and Alternative Sale Hearing Date.
10	July 29, 2009		Proof of Claim No. 19502

11	July 29, 2009		Proof of Claim No. 19501
12	July 30, 2009	18707	Order Approving Modifications Under 11 U.S.C. § 1127(b) to (I) First Amended Joint Plan of Reorganization of Delphi Corporation and Certain Affiliates, Debtors, and Debtors-In-Possession, as Modified and (II) Confirmation Order
13	October 6, 2009	18958	Notice of (A) Order Approving Modifications to First Amended Joint Plan of Reorganization of Delphi Corporation and Certain Affiliates, Debtors and Debtors-In-Possession and (B) Occurrence of Effective Date.
14	October 15, 2009	18983	Reorganized Debtors' Thirty-sixth Omnibus Objection Pursuant to 11 U.S.C. § 502(b) and FED. R. BANKR. P. 3007 to (I) Modify and Allow Claim and (II) Expunge Certain (A) Duplicate SERP Claims, (B) Books and Records Claims, (C) Untimely Claims, and (D) Pension, Benefit, and OPEB Claims
15	November 9, 2009	19048	Motion of Michigan Self-Insurers' Security Fund to Permit Late Filed Claim Pursuant to FED. R. BANK. P. 9006(b)
16	November 10, 2009	19053	Response of Michigan Self-Insurers' Security Fund to Thirty-sixth Omnibus Objection Pursuant to 11 U.S.C. § 502(b) and FED. R. BANKR. P. 3007 to (I) Modify and Allow Claim and (II) Expunge Certain (A) Duplicate SERP Claims, (B) Books and Records Claims, (C) Untimely Claims, and (D) Pension, Benefit, and OPEB Claims
17	December 11, 2009	19179	Reorganized Debtors' Objection to Motion of Michigan Self-Insurers' Security Fund to Permit Late Filed Claim Pursuant to FED. R. BANK. P. 9006(b)
18	December 17, 2009	19192	Reply of Michigan Self-Insurers' Security Fund to Reorganized Debtors' Objection to Motion of Michigan Self-Insurers' Security Fund to Permit Late Filed Claim Pursuant to FED. R. BANK. P. 9006(b)

19	December 18, 2009		Transcript of Hearing on Motion of Michigan Self-Insurers' Security Fund to Permit Late Filed Claim Pursuant to FED. R. BANK. P. 9006(b)(Transcript has been ordered)
20	December 23, 2009	19237	Order Pursuant to 11 U.S.C. § 503(b) and FED. R. BANKR. P. 3007 (I) Denying Michigan Self-Insurers' Security Fund's Motion to Permit Late Filed Claim and (II) Disallowing and Expunging Proof of Claim Numbers 19501, 19502, 19541, AND 19542

Respectfully submitted,

Michael A. Cox
Attorney General

/s/ Dennis J. Raterink (P52678)
Assistant Attorney General
Attorneys for Michigan Self-Insurers' Security Fund
Labor Division
P.O. Box 30736
Lansing, Michigan 48909
(517) 373-1176
raterinkd@michigan.gov

Dated: January 6, 2010

CERTIFICATE OF SERVICE (efile)

I hereby certify that on January 6, 2010, I electronically filed a Michigan Self-Insurers' Security Fund's Statement of Issues and Designation of Record on Appeal with the Clerk of the Court using the ECF System, which will provide electronic copies to counsel of record.

/s/ Dennis J. Raterink
Assistant Attorney General
Attorney for Self-Insurers' Security Fund
Labor Division
P.O. Box 30736
Lansing, Michigan 48909
Telephone: (517) 373-1176
raterinkd@michigan.gov
(P52678)